



**THE**

# **JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 129] Srinagar, Thu., the 1st Sept., 2016/10th Bhad., 1938. [No. 22

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## **PART I-A**

### **Jammu & Kashmir Government–Orders**

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HIGH COURT OF JAMMU AND KASHMIR AT JAMMU.

Notification

No. 5 Dated 07-04-2015.

It is hereby notified that vide High Court Order dated 06-04-2016 Mr. Rakesh Kumar Sharma S/o Mr. Jagdish Raj Sharma R/o H. No. 303, Lane No. 3, Adarsh Enclave, Trikuta Nagar (Exton-1), Jammu has been admitted and enrolled as an Advocate on the Roll of Jammu and Kashmir Bar Council provisionally for a period of one year from the date of issuance of this notification, subject to the verification of his provisional/LL.B Degree Certificate and verification of his character and antecedent from the concerned agency. His name has been entered under Serial No. JK-196/2016 in the Roll of Advocates maintained by this Registry.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 60 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Mr. Waseem Sajad Malik S/o Gh. Nabi Malik R/o Gugloosa, Noorabad, Kupwara vide Notification No. 115 dated 23-05-2013 for a period of one year has been extended till 16-12-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 61 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Ms. Upasana Thakur D/o Mr. Kartar Singh R/o Village Adhat, P/O Dharamahanpur, Tehsil Basohli, District Kathua vide Notification No. 892 dated 22-12-2014 for a period of one year has been extended till 15-12-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 62 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Mr. Zahid Ahmed S/o Mr. Ghulam Mohd R/o Seri Khawaja, Tehsil and District Poonch vide Notification No. 922 dated 23-12-2014 for a period of one year has been extended till 15-12-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 63 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Mr. Ajaz Afzal Lone S/o Mr. Mohammad Afzal Lone R/o Rehmatabad, Rafiabad (Thaggund), Rohama, Baramulla vide Notification No. 725 dated 14-11-2014 for a period of one year has been extended till 28-10-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

Notification

No. 64 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Mr. Sayeed Aftab Hussain Shah S/o Mr. Sayed Taswar Hussain Shah R/o Ari, Mendhar, District Poonch vide Notification No. 949 dated 23-12-2014 for a period of one year has been extended till 23-12-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

Notification

No. 65 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Mr. Jaasir Ashraf Mir S/o Mr. Mohammad Ashraf Mir R/o 393, Bilal Colony, Soura, Srinagar vide Notification No. 560 dated 15-10-2014 for a period of one year has been extended till 03-09-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 66 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Mr. Ravi Kumar S/o Mr. Ram Lal Sharma R/o Ward No. 2, Nowshera, Rajouri vide Notification No. 932 dated 23-12-2014 for a period of one year has been extended till 15-12-2016 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 67 Dated 16-04-2016.

Provisional admission granted under Advocates Act, 1961 in favour of Ms. Rita Kaship D/o Mr. Ramesh Kumar R/o H. No. 48, Ward No. 3, Kalsotra Mohalla, Ram Nagar, Udhampur vide Notification No. 1195 dated 24-02-2015 for a period of one year has been extended till 20-02-2017 subject to the verification of Certificates/Degrees.

The renewal/extension of provisional license/enrolment must be sought before the date of expiry unless the absolute/final enrolment as an Advocate is ordered therebefore.

By order.

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Notification

No. 259 Dated 25-04-2016.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Bhanu Partap Singh S/o Mr. Bal Raj Singh R/o Ward No. 15, Near RMC School, Patel Nagar, Kathua vide Notification No. 279 dated 23-05-2014 has been declared as absolute/final.

By order.

(Sd.) MOHAMMAD YASIN BEIGH,

Joint Registrar (Admn.).



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**PART I—B**

**Jammu and Kashmir Government—Notifications.**

GOVERNMENT OF JAMMU AND KASHMIR,  
CIVIL SECRETARIAT—REVENUE DEPARTMENT.

Notification No. 17-Rev (LAJ) of 2016

Dated 16-03-2016.

Whereas, the land, specifications whereof are given below,  
is required for construction of “Jhajjar Bridge connecting SMVD  
University with NH at Jhajjar Manthal in Village Sool, Tehsil Katra,  
District Reasi :—

Specifications

District	Tehsil	Village	Khasra No.	Area
Reasi	Katra	Sool	1110	K. M. 02-01

Whereas, on the basis of an indent placed by Executive Engineer, PW (R&B) Department, Division, Katra vide No. 3405-09 dated 28-12-2015, a notification under section 4 (1) was issued by Collector, Land Acquisition (ACR), Reasi vide No. Coll/LA/ACR/Reasi/15/726-729 dated 19-01-2016 for land measuring 02 Kanals 01 Marlas situated in Village Sool, Tehsil Katra, District Reasi ; and

Whereas, the notification issued by the Collector, Land Acquisition (ACR), Reasi under section 4 (1) of the J&K State Land Acquisition Act, was served upon the interested persons for filing objections ; and

Whereas, the Collector, Land Acquisition, Reasi vide his letter No. Coll/LA/ACR/Reasi/15/842-846 dated 20-02-2016 has informed that no objection was received within the stipulated period under section 5-A of the Land Acquisition Act ; and

Whereas, the report furnished by Collector, Land Acquisition (ACR), Reasi vide his letter referred to above, duly endorsed by Deputy Commissioner, Reasi vide his No. DC/Rsi/15-16/2815-16/SQ dated 20-02-2016, Divisional Commissioner, Jammu vide his No. 502/2576/Acq/Sool/SMVD/Rsi/16/3147-49 and Financial Commissioner (Revenue), J&K vide his No. FC-LS/LA-4458/2016 dated 14-03-2016 has been examined and it has been found that the land owners did not file any objection to the proposed acquisition ; and

Whereas, the Government is satisfied that the land particulars whereof are mentioned above, is required for public purposes viz. construction of Jhajjar Bridge connecting SMVD University with NH at Jhajjar Manthal in Village Sool, Tehsil Katra, District Reasi.

Now, therefore, in pursuance of section 6 of the J&K State Land Acquisition Act, Samvat 1990, it is declared that the land measuring 02 Kanals 01 Marlas details whereof are given above is required for a public purpose viz. construction of Jhajjar Bridge connecting SMVD University with N H at Jhajjar Manthal in Village Sool, Tehsil Katra, District Reasi. Further, the Collector, Land Acquisition (ACR), Reasi



is directed under section 7 of the said Act to take order for acquisition of the said land after giving prescribed notice to the interested person(s) as required under the Land Acquisition Act/Rules.

However, the Collector concerned shall be personally responsible for proper title verification of all types of land involved in the case, identification of all the interested persons/rightful claimants and apportionment of compensation thereof in accordance with the relevant laws/rules in force, while making the award.

(Sd.) MUHAMMAD AFZAL, IAS,

Secretary to the Government,  
Revenue Department.

GOVERNMENT OF JAMMU AND KASHMIR,  
CIVIL SECRETARIAT—REVENUE DEPARTMENT.

Notification No. 18-Rev (LAK) of 2016

Dated 17-03-2016.

Whereas, the land, specifications whereof are given below, is required for construction of Pumping Station, Zone-II in Estate Rawalpura (Madina Colony), Tehsil Chanpora, District Srinagar :—

Specifications

District	Tehsil	Estate/Mouza	Khasra No.	Area
Srinagar	Chanpora	Rawalpura	1389 min	K. M. 02-01

Whereas, on the basis of an indent placed by Project Manager, (JKUSDIP), ERA, Kashmir vide his No. ERA/PM/JKUSDIP/K/479-82 dated 29-01-2015, a notification under section 4 (1) was issued by

Collector, Land Acquisition, ERA, Kashmir, vide No. 93-101/LA/ERA dated 24-04-2015 for land measuring 02 Kanals 01 Marla in Estate Rawalpura (Madina Colony), Tehsil Chanpora, District Srinagar for construction of Pumping Station, Zone-II ; and

Whereas, the notification issued by the Collector, Land Acquisition, ERA, Kashmir under section 4 (1) of the J&K State Land Acquisition Act, was served upon the interested persons for filing objections ; and

Whereas, the Collector, Land Acquisition, ERA, Kashmir vide letter No. 903-905/LA/ERA dated 29-09-2015 read with letter dated 08-03-2016 has informed that no objection was received within the stipulated period under section 5-A of the Land Acquisition Act ; and

Whereas, the report furnished by Collector, Land Acquisition, ERA, Kashmir vide referred to above has been examined and it has been found that the case was placed before the District Level Negotiation Committee on 18-04-2015, wherein the land owners did not agree to part with the land for the proposed acquisition and demanded exorbitant rates consequent upon which decided to acquire the land through compulsory mode of acquisition ; and

Whereas, a declaration under sections 6&7 of the Land Acquisition Act was issued by the Deputy Commissioner, Srinagar vide his No. DCS/LAS/1851/235-39 dated 09-07-2015, which was subsequently withdrawn vide No. DCS/LAS/1851/1262-68 dated 18-02-2016 by the Deputy Commissioner, who, inter alia, requested for issuance of a fresh declaration/notification under sections 6&7 of the Land Acquisition Act by the competent authority ; and

Whereas, the Collector, Land Acquisition, ERA, Kashmir has requested for invoking urgency clause under section 17 of the Land Acquisition Act, enabling him to take over possessed of the land, immediately, in anticipation of the Award ; and

Whereas, the report of the Collector, Land Acquisition, ERA, Kashmir vide No. referred to above duly endorsed by Deputy

Commissioner, Srinagar vide No. DCS/LAS/482-483 dated 15-10-2015 read with No. DCS/LAS/1851/744 dated 10-12-2015, Divisional Commissioner, Kashmir vide No. Div. Com./LAS-Acq/2911/1468 dated 09-01-2016 and Financial Commissioner (Revenue), J&K vide No. FC-LS/LA-444/2016 dated 01-02-2016, has been examined and it has been found that there is no alternate but to acquire the land through compulsory mode of acquisition for the aforementioned public purpose ; and

Whereas, the Government is satisfied that the land particulars whereof are mentioned above to this notification, is required for public purpose viz. construction of Pumping Station, Zone-II in Estate Rawalpura (Madina Colony), Tehsil Chanpora, District Srinagar.

Now, therefore, in pursuance of section 6 of the J&K State Land Acquisition Act, Samvat 1990, it is declared that the land measuring 02 Kanals 01 Marla in Estate Rawalpura (Madina Colony), Tehsil Chanpora, District Srinagar details whereof are indicated above to this notification is required for a public purpose viz. for construction of Pumping Station, Zone-II. Further, the Collector, Land Acquisition, ERA, Kashmir is directed under section 7 of the said Act to take order for acquisition of the said land after giving prescribed notice to the interested person(s) as required under the Land Acquisition Act/Rules.

Since, there is urgency involved in matter, in pursuance of section 17 of the J&K State Land Acquisition Act, 1990, it is ordered that on expiry of fifteen days from the date of publication of notification under section 9(2) of the said Act, the Collector, Land Acquisition, ERA, Kashmir will take possession of the aforementioned land situated in Estate Rawalpura (Madina Colony), Tehsil Chanpora, District Srinagar required for public purposes, subject to the fulfilment of conditions prescribed under section 9(2) and section 17-A of the J&K State Land Acquisition Act and Rule 63 of the J&K Land Acquisition Rules.

However, the Collector, concerned shall be personally responsible proper title verification of all types of land involved in the case,

identification of all the interested persons/rightful claimants and apportionment of compensation thereof in accordance with the relevant laws/rules in force, while making the award.

By order of the Government of Jammu and Kashmir.

(Sd.) MUHAMMAD AFZAL, IAS,

Secretary to the Government,  
Revenue Department.

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GOVERNMENT OF JAMMU AND KASHMIR,  
CIVIL SECRETARIAT—REVENUE DEPARTMENT.

Notification No. 19-Rev (LAK) of 2016

Dated 17-03-2016.

Whereas, the land, specifications whereof are given in Annexure “A” to this notification, is required for construction of 9 MW Hydel Project at Hanu and Dha, Tehsil Khaltsi, District Leh ; and

Whereas, on the basis of an indent placed by Executive Engineer, Civil Division-I, PDC, Khaltsi vide No. CD-1/PDC/KH/88-90 dated 17-12-2015, a notification under section 4(1) was issued by Collector, Land Acquisition (SDM), Khaltsi vide No. SDMK-81(D)/Rev/2013 dated 15-01-2016 for land measuring 22 Kanals 13 Marlas and 37 Kanals 03 Marlas situated in Villages Hanu and Dha, Tehsil Khaltsi, District Leh for construction of 9 MW Hydel Project ; and

Whereas, the notification issued by the Collector, Land Acquisition (SDM), Khaltsi under section 4(1) of the J&K State Land Acquisition Act, was served upon the interested persons for filing objections ; and

Whereas, the Deputy Commissioner, Leh vide his letter No. LAC-25(D)Rev/2016 (803) dated 02-03-2016 has informed that no objection

was received within the stipulated period under section 5-A of the Land Acquisition Act ; and

Whereas, the report furnished by Deputy Commissioner, Leh vide his letter No. LRA-25(D) Rev/2012 (803) dated 25-02-2016, has been examined and it has been found that the land owners are not averse to the proposed acquisition ; and

Whereas, the Government is satisfied that the particulars whereof are mentioned in Annexure “A” to this notification, is required for public purposes i. e. for construction of 9 MW Hydel Project at Hanu and Dha, Tehsil Khalbati, District Leh.

Now, therefore, in pursuance of section 6 of the J&K State Land Acquisition Act, Samvat 1990, it is declared that the land measuring 22 Kanals 13 Marlas and 37 Kanals 03 Marlas situated in Villages Hanu and Dha, respectively, Tehsil Khalbati, District Leh, details whereof are indicated in Annexure “A” to this notification is required for a public purpose viz. construction of 9 MW Hydel Project at Hanu and Dha, Tehsil Khalbati, District Leh. Further, the Collector, Land Acquisition (SDM), Khalbati is directed under section 7 of the said Act to take order for acquisition of the said land after giving prescribed notice to the interested person(s) as required under the Land Acquisition Act/ Rules.

However, the Collector concerned shall be personally responsible for proper title verification of all types of land involved in the case, identification of all the interested persons/rightful claimants and apportionment of compensation thereof in accordance with the relevant laws/rules in force, while making the award.

(Sd.) MUHAMMAD AFZAL, IAS,

Secretary to the Government,  
Revenue Department.

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*Annexure 'A' to Notification No. 19-Rev(LAK) of 2016  
dated 17-03-2016.*

District	Tehsil	Village	Khasra Nos.	Area
1	2	3	4	5
				K. M.
Leh	Khaltsi	Hanu	1824	00-17
			1825	03-02
			2995	10-18
			2996/2333/1800	04-09
			1807	01-14
			2923/2904/2729	01-13
			Total	22-13
Leh	Khaltsi	Dha	666	03-15
			665	00-14
			667	04-16
			673 Min	08-12
			686 Min	02-09
			677	01-03
			678 Min	01-09
			676 Min	01-19
			675 Min	07-06
			1810	05-00
			Total	37-03

GOVERNMENT OF JAMMU AND KASHMIR,  
CIVIL SECRETARIAT—GENERAL ADMINISTRATION  
DEPARTMENT.

Subject :—Ensuring punctuality in the Government Offices and  
promoting transparency.

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Circular No. 23-GAD of 2016

Dated 26-04-2016.

In order to ensure punctuality in Government Offices and for promoting a transparent work culture, the Hon'ble Chief Minister has directed that attendance of the employees shall be checked and reported to their controlling officers, on a daily/weekly basis. This should be done without any consideration of their being related or affiliated with the person(s) holding high public offices/constitutional or any other influential position. Besides, no special treatment should be given to such persons for availing the benefits and accessing various services available to the citizens under the laid down framework.

All the Administrative Secretaries are requested to ensure strict compliance of these instructions.

(Sd.) GAZZANFER HUSSAIN,

Commissioner/Secretary to the Government.

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GOVERNMENT OF JAMMU AND KASHMIR,  
CIVIL SECRETARIAT—GENERAL ADMINISTRATION  
DEPARTMENT.

Subject :—Appointment of Vice-Chairman, Jammu and Kashmir State  
Advisory Board for Welfare and Development of the Other  
Backward Classes (OBCs).

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Government Order No. 843-GAD of 2016

Dated 02-08-2016.

Mr. Rashpaul Verma S/o Late Mr. Prabhu Dayal R/o Chhan  
Matloni, Ghagwal, District Samba is hereby appointed as Vice-Chairman,

Jammu and Kashmir State Advisory Board for Welfare and Development of the Other Backward Classes (OBCs).

The terms and conditions for the appointment of Mr. Rashpaul Verma will be notified separately.

By order of the Government of Jammu and Kashmir.

(Sd.) BASHIR AHMAD LONE, KAS,

Additional Secretary to the Government.





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**PART II—A**

**Orders by Heads of Departments.**

-----  
**CHARGE REPORTS**

In pursuance of Government Order No. 365-GAD of 2016 dated 11-04-2016, we the undersigned handover/takeover the charge of the Office of Commissioner, Commercial Taxes, J&K today on 12th of April, 2016 A. N.

(Sd.) HILAL AHMED PARRAY, IAS.

Relieved Officer.

(Sd.) VINEETA GUPTA, IAS.

Relieving Officer.

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Subject :—Handing over/taking over the charge of the post(s) of  
Administrative Secretary, Information, H&P, Civil Aviation and  
Estates Departments.

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In pursuance of Government Order No. 389-GAD of 2016 dated  
18-04-2016, we the undersigned hereby handover/takeover the charge of  
the post(s) of Administrative Secretary, Information, H&P, Civil Aviation  
and Estates Departments today i. e. on April 18, 2016 afternoon.

(Sd.) B. B. VYAS, IAS,

Financial Commissioner,  
Planning and Dev. Department.

Relieved Officer.

(Sd.) NAVIN KUMAR CHOUDHARY, IAS,

Principal Secretary to Hon'ble Chief Minister.

Relieving Officer.



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**PART II—B**

**Notifications, Notices and Orders by Heads of Departments.**

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OFFICE OF THE COLLECTOR, LAND ACQUISITION,  
POWER GRID CORPORATION OF INDIA LTD.,  
NARWAL-II BALA, BY-PASS ROAD, JAMMU.

No. N2JM/PGCIL/CLA/2016/3231-38

Dated 29-12-2016.

Subject:—Notification under section 4 (1) of Land Acquisition Act, 1990  
Samvat as amended up-to-date.

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In exercise to powers conferred upon me under section 4 (1)  
of Land Acquisition Act, 1990 Samvat I, Kamla Devi (KAS),

Collector, Land Acquisition, Power Grid Corporation of India Limited, Jammu, do hereby notify that the land measuring 15 Kanlas 19 Marlas 1½ Sarsaie of Village Tarmara, Ritti, Ksheer, Ser, Kuperla, Daroo and District Udhampur, particulars of which shown below is likely to be acquired for public purpose namely construction of 400 KV D/C Dulhasti-Kishenpur Transmission Line :-

District	Tehsil	Village	Location No.	Khasra No.	Area
1	2	3	4	5	6
					K. M. S.
Udhampur	Udhampur	Tarmara	304/0	226	01-08-04
		Ritti	327/0	737	00-17-08
				738	00-02-03
				Total	01-00-02
Udhampur	Udhampur	Ksheer	331/0	109 min	00-03-00
				126 min	00-08-05
				128	00-06-06
				129	00-16-07
				Total	01-15-00
Udhampur	Udhampur	Ser	304/C	27	01-08-04
				2	00-05-06
				3	00-04-04
			304/A	4	00-06-01
				5	00-12-00
				Total	01-08-02

1	2	3	4	5	6
					K. M. S.
			305/A	162	00-11-03
				163	00-17-03
				Total	01-08-03
			306/0	174	01-09-07
				177	00-16-00
				Total	02-05-07
			307/0	280	01-09-07
		Kuprla	316	433	00-02-02
				434	00-00-04
				435	00-01-01
				436	00-01-04
				447	00-00-07
				Total	00-06-00
		Darsoo	338/0	1145	00-09-03
				1146	00-14-4½
				Total	01-03-7½
			328/0	1252	01-05-00
				Total	15-19-1½

(Sd.) KAMLA DEVI, KAS,

Collector, Land Acquisition,  
Power Grid Corporation of India,  
NR-II, Narwal, Bye-Pass,  
Jammu.

GOVERNMENT OF JAMMU AND KASHMIR  
(REHABILITATION DEPARTMENT),  
OFFICE OF THE DEPUTY CUSTODIAN,  
EVACUEES PROPERTY, DISTRICT POONCH.

Notification

Dated 26-02-2016.

In pursuance of sub-section (1) section 6 of the Jammu and Kashmir State Evacuees (Administration of Property) Act VI of 2006, the Deputy Custodian is pleased to notify for general information the list of evacuees properties specified in the schedule annexed hereto which have vested in him.

Schedule

Description	Location
Evacuee property land covered under Kh. No. 996/1 belonging to Mohd Din, Badar Din and others Ss/o Bhaka Mohd, evacuees of 1947 illegal construction raised by Sh. Sarfraz Ahmad S/o Tufail Hussain with following dimensions as under :— Four rooms. 13'-5"X15", 13'-5"X15' 13'-5"X15 13'-5"X15, Read in Section 9A, Evacuee Property Act, 2006.	Village Samote, Tehsil Surankote, Poonch.

(Sd.) A. R SHEIKH,

Deputy Custodian,  
Evacuee Property,  
Poonch.

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GOVERNMENT OF JAMMU AND KASHMIR  
(REHABILITATION DEPARTMENT),  
OFFICE OF THE DEPUTY CUSTODIAN,  
EVACUEES PROPERTY, DISTRICT POONCH.

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Dated 26-02-2016.

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Schedule

Description	Location
Evacuee property land covered under Kh. No. 996 belonging to Mohd Din, Badar Din and others Ss/o Bhaka Mohd, evacuees of 1947 illegal construction raised by Nisar Ahmad S/o Alla Ditha with following dimensions under :- Three Shops 9'X20"-9'X20"-9'X20" Read in Section 9A, Evacuee Property Act, 2006.	Village Samot, Tehsil Surankote, Poonch.

(Sd.) A. R SHEIKH,

Deputy Custodian,  
Evacuee Property,  
Poonch.

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GOVERNMENT OF JAMMU AND KASHMIR  
(REHABILITATION DEPARTMENT),  
OFFICE OF THE DEPUTY CUSTODIAN,  
EVACUEES PROPERTY, DISTRICT POONCH.

Notification

Dated 26-02-2016.

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Schedule

Description	Location
Evacuee property land covered under Kh. No. 996 belonging to Mohd Din, Badar Din and others Ss/o Bhaka Mohd, evacuee of 1947 illegal construction raised by Manga S/o Habib with following dimensons as under :— Three Shops 18'X10' 7'-6'X14" 7'-6'X14" Read in Section 9A, Evacuee Property Act, 2006.	Village Samote, Tehsil Surankote, Poonch.

(Sd.) A. R SHEIKH,

Deputy Custodian,  
Evacuee Property,  
Poonch.

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GOVERNMENT OF JAMMU AND KASHMIR  
(REHABILITATION DEPARTMENT),  
OFFICE OF THE DEPUTY CUSTODIAN,  
EVACUEES PROPERTY, DISTRICT POONCH.

Notification

Dated 26-02-2016.

In pursuance of sub-section (1) section 6 of the Jammu and Kashmir State Evacuees (Administration of Property) Act VI of 2006, the Deputy Custodian is pleased to notify for general information the list of evacuees properties specified in the schedule annexed hereto which have vested in him.

Schedule

Description	Location
Evacuee property land covered under Kh. No. 300 measuring 5 Kanlas 2 Marlas belonging to Ghulam Hayder S/o Gulsher evacuees illegal construction raised by Mohd Rafiq and other Ss/o Mohd Ayoub with following dimensons as under :- Two Rooms 10'X15' 10'X15' in 2. F Four Rooms 12'X10'-12'X10'-12'X10'- 12'X10' Bath Room 6'X8' Looby 8'X15' Fister Read in Section 9A, Evacuee Property Act, 2006.	Village Banch, Tehsil Haveli, Poonch

(Sd) A. R SHEIKH

Deputy Custodian,  
Evacuee Property,  
Poonch.

-----

OFFICE OF THE COLLECTOR, LAND ACQUISITION,  
SDM, GANDOH

Notification under section 4 (1) of Land Acquisition  
Act, 1990 BK.

Whereas, the Chief Medical Officer, Doda vide his No. CMOD/  
plg/Acq/410-14 dated 15-09-2015 has furnished indent for acquisition  
of land for construction of NTPHC Chilly Paine in Village Chilli, Tehsil  
Chilly Pingal, District Doda under Medical Department.

Specification of the land is as under.

Tehsil	Village	Kh. Nos.	Area	No. of Structure	No. of F/B/T	No. N/F/B/T
-----						
			K. M.			
Chilli Pingal	Chilly Pine	254 min	00-11	—	02	—
		256 min	00-18	—	02	—
			00-14	—	08	—
			-----		---	
		Total	02-03		10	
			-----		---	

Therefore, I, Dil Mir Choudhary, KAS, Collector, Land  
Acquisition (Sub-Divisional Magistrate), Gandoh in exercise of the  
powers vested in me under sub-section (1) of section 4 of the Land  
Acquisition Act, 1990 BK, do hereby notify the land particulars of  
which are given above is likely to be needed for public purpose viz.  
for construction of NTPHC Chilly Pine Village Chilly, Tehsil Chilly  
Pingal, District Doda under Medical Department.

Objections, if any, to the acquisition of the land will be received  
by the undersigned within fifteen days from the date of publication  
of this notice personally or through authorized agent.

(Sd.) DIL MIR CHOUDHARY, KAS,

Collector, Land Acquisition,  
Sub-Divisional Magistrate,  
Gandoh.

-----

GOVERNMENT OF JAMMU AND KASHMIR,  
OFFICE OF THE COLLECTOR, LAND ACQUISITION, URI  
(ASSISTANT COMMISSIONER, REVENUE), BARAMULLA.

Subject :—Acquisition of addl. land for construction of Road under PMGSY from Bela Salamabad to Hilled Peernia in Estate Hilled Peernia, Tehsil Boniyar, District Baramulla (Land measuring 07 Marlas 07 Srs.).

Reference :— Executive Engineer, PMGSY Division, Uri's letter No. EE/PMGSY/Uri/1688-92 dated 13-10-2015.

Notification under section 4.

In exercise of the powers vested in me under the provisions of sub-section (1) of section 4 of J&K Land Acquisition Act, Samvat 1990, I, Collector, Land Acquisition, Uri (Assistant Commissioner, Revenue), Baramulla do hereby notify the land for public purpose namely construction of Road under PMGSY from Bela Salamabad to Hilled Peernia in Estate Hilled Peernia, Tehsil Boniyar, District Baramulla (Land measuring 07 Marlas 07 Srs) :—

The particulars of land are given hereinbelow :—

District	Tehsil	Village	Kh. No.	Area
				K. M. S.
Baramulla	Boniyar	Hilled Peernia	209	00-07-07
Total (Land measuring 02 Marlas 01 Srs).				

Objections from interested persons/land owners (if any) will be received by the undersigned up to 15 days from the date of issuance of this notification.

(Sd.).....

Collector, Land Acquisition, Uri,  
Assistant Commissioner (Rev.),  
Baramulla.

Notice

I, Smt. Sheelo Devi W/o Late Sh. Dharam Chand R/o Bhour Kullian, P/O Bhour Camp, Tehsil Jammu (S), District Jammu wants to correct the name of my husband in the army service records of my son as Army No. 1072275-A Rank SWR Tilak Raj S/o Sh. Dharam Chand which has been wrongly written as Dharam Raj whereas his correct name is it Sh. Dharam Chand. Objection, if any, may be conveyed to AC records C/o 56 APO within 7 days.



**THE  
JAMMU AND KASHMIR GOVERNMENT GAZETTE**

Vol. 129] Srinagar, Thu., the 1st Sept., 2016/10th Bhad., 1938. [ No. 22

Separate paging is given to this part in order that it may be filed as a separate compilation.

**ADVERTISEMENTS-C**

GOVERNMENT OF JAMMU AND KASHMIR,  
DIRECTORATE OF SAINIK WELFARE, AMBPHALLA,  
JAMMU-180005.

Advertisement Notice 109-ESTT/DSW/2016

Dated 02-09-2016.

1. Applications are invited on the prescribed Proforma as per Appendix 'A' to this notification from the ex-servicemen of the concerned District of J&K State for the under mentioned posts :—

Post	No. of Posts	Pay Scale	Qualification	Place of Posting
(i) Peon-cum-Chowkidar, ZSWO, Baramulla (District Cadre)	02	IS 4440-7440 with GP 1300/-	(i) Should be minimum Matric and Maximum 10+2 (An ex-serviceman who has passed Army First Class Certificate and has put in 15	ZSWO, Baramulla

---

years of service in the Armed Forces shall be considered to be a Matriculate).  
(ii) Should bear an Exemplary Character at the time of retirement from Defence Services.

2. The candidates should not be less than 34 years or more than 52 years of age as on 01 January, 2016.

3. Service terms and conditions and emoluments applicable as per relevant service rules of the State Government will apply.

4. Application forms should reach their concerned Zila Sainik Welfare Office by 30 Sept., 2016 positively duly completed in all respects along with following documents, duly attested :—

- (a) Matriculate Certificate with Date of Birth.
- (b) Permanent Resident Certificate.
- (c) Attested copy of Discharge Certificate.
- (d) Qualification Certificate.
- (e) Marks Certificate of each examination passed.
- (f) Experience Certificate, if any.
- (g) A self addressed envelope duly stamped.

5. Incomplete applications will not be considered. The department has full right to reject the application forms not meeting the eligibility. Eligible ex-servicemen will have to appear for interview at the place, to be intimated later, at their own expense. The candidates who apply for the post and do not get call letters for Interview will not seek reasons for rejection of their applications from the department.

(Sd.) BRIG. HARSHARAN SINGH (Retd.),

Director, Sainik Welfare.

رجسٹرڈ نمبر جے کے۔ 33

# جموں و کشمیر گورنمنٹ گزٹ

جلد نمبر 129۔ سرینگر۔ مورخہ یکم ستمبر 2016ء بمطابق 10 بھادرا 1938 ویروار۔ نمبر 22

## اشتہارات

از عدالت جوڈیشل مجسٹریٹ درجہ اول قاضی کنڈ

سرکار بنام فردوش احمد بابا وغیرہ (ملزمان)

علت نمبر 02 سال 2012ء ، تھانہ پولیس قاضی کنڈ

بجرائم زیر دفعات : 341/325/147 RPC

وارنٹ گشتی عام زیر دفعہ 512 ض ف

بخلاف ملزم : عاصف بابا ولد منظور بابا ساکنہ ساکنہ ساکنہ (ملزم)

حکم بنام : اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان اُلصدر میں آپ کو بذریعہ وارنٹ گشتی عام سے حکم دیا جاتا ہے کہ آپ ملزم صدر جہاں کہیں، جب بھی ریاست جموں و کشمیر میں دستیاب ہو تو اُس کو گرفتار کر کے عدالت ہذا میں بحراست ضابطہ پیش کریں۔ وارنٹ ہذا دستیاب ملزم زیر کار رہے گا۔

تحریر اُلصدر 22-06-2016

دستخط : جوڈیشل مجسٹریٹ درجہ اول قاضی گنڈ۔

از عدالت ایڈیشنل سپیشل موبائل مجسٹریٹ کراہ پورہ

بذریعہ سرکار بنام حبیب اللہ کونشی وغیرہ

علت نمبر 05 سال 2016ء، تھانہ پولیس کراہ پورہ

بجرائم زیر دفعات : 366,376,344,109 / RPC

وارنٹ گشتی عام بنام (1) حبیب اللہ کونشی ولد جمعہ کونشی (2)

محمد رفیق کونشی ولد عزیز کونشی (3) شاہ زمان کونشی ولد سعد الرحمان کونشی ساکنان

عید گاہ کپواڑہ (ملزمان)



حکم بنام : اہلکاران پولیس ریاست جموں و کشمیر۔

مقدمہ مندرجہ عنوان اُصدر میں آپ کو لکھا جاتا ہے کہ آپ ملزمان اُصدر اندر حدود ریاست جموں و کشمیر میں جہاں کہیں بھی دستیاب ہو گرفتار کر کے بحراست ضابطہ عدالت ہذا میں پیش کریں۔ وارنٹ ہذا دستیابی ملزم زیر کار رہے گا۔  
وارنٹ ہذا آج مورخہ 22-06-2016 دستخط راقم و مہر عدالت ہذا سے جاری کیا ہے۔

دستخط : ایڈیشنل سپیشل موبائل مجسٹریٹ کرا لہ پورہ۔

از عدالت ایڈیشنل سیشن جج کٹھوعہ

سرکار بنام سکھچین سنگھ وغیرہ

پرچہ علت نمبر 38 سال 2008ء ، تھانہ پولیس جہاں نگر

جرم زیر دفعہ : 8/15/NDPST

وارنٹ گشتی عام زیر دفعہ 512 ض ف

بخلاف ملزم :

حکم بنام : اہلکاران پولیس ریاست جموں و کشمیر۔

معاملہ مندرجہ عنوان اُصدر میں ملزم کو بار بار بذریعہ وارنٹ گرفتاری بلا ضمانتی طلب کیا گیا ہے۔ الا ملزم کی دستیابی نہ ہوئی ہے اور وارنٹ ہذا پر تعمیل

آئی ہے کہ ملزم سر جیت سنگھ ولد رتن سنگھ قوم جٹ ساکنہ کلیسر تحصیل و ضلع امرتسر پنجاب گھر سے فرار ہے اور روپوش ہو گیا ہے جس سے ملزم کی دستیابی بطریق آسانی مشکل ہے۔

لہذا ملزم کے خلاف کارروائی زیر دفعہ 512 ض ف بعمل لائی جا کر اہلکاران پولیس ریاست جموں و کشمیر کو حکم و اختیار دیا جاتا ہے کہ ملزم متذکرہ بالا جہاں کہیں بھی اندر حدود ریاست میں دستیاب ہو تو فوراً گرفتار کر کے عدالت ہذا میں پیش کریں۔

دستخط : ایڈیشنل سیشن جج کٹھوعہ۔



EXTRAORDINARY

REGD. NO. JK—33



**THE  
JAMMU & KASHMIR GOVERNMENT GAZETTE**

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Vol. 129] Srinagar, Sat., the 23rd July, 2016/1st Srav., 1938. [No. 16-1

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Separate paging is given to this part in order that it may be filed as a  
separate compilation.

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**PART III**

**Laws, Regulations and Rules passed thereunder.**

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GOVERNMENT OF JAMMU AND KASHMIR  
CIVIL SECRETARIAT—DEPARTMENT OF LAW, JUSTICE  
AND PARLIAMENTARY AFFAIRS

Srinagar, the 23rd July, 2016.

The following Act as passed by the Jammu and Kashmir State  
Legislature received the assent of the Governor on 23rd July, 2016 and  
is hereby published for general information :—

THE JAMMU AND KASHMIR PUBLIC PREMISES  
(EVICTION OF UNAUTHORISED OCCUPANTS)  
(AMENDMENT) ACT, 2016

(Act No. VII of 2016)

[23rd July, 2016.]

An Act to amend the Jammu and Kashmir Public Premises  
(Eviction of Unauthorised Occupants) Act, 1988.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-seventh Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Public Premises (Eviction of Unauthorised Occupants) (Amendment) Act, 2016.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. *Amendment in section 2.*—In section 2 of the Jammu and Kashmir Public Premises (Eviction of Unauthorised Occupants) Act, 1988 (hereinafter referred to as the ‘Principal Act’),—

(i) existing clause (a) shall be renumbered as clause (aa) ;  
and

(ii) before clause (aa), as so renumbered, the following clause shall be inserted :—

“(a) ‘appellate officer’ in respect of a public premises means the District Magistrate of the District in which such public premises are situate.”

3. *Substitution in section 4.*—For section 4 of the Principal Act, the following shall be substituted, namely :—

**“4. Issue of notice to produce documents in proof of authorization of occupation.**—(1) If the Estates Officer has reasons to believe that any person is in unauthorized occupation of any public premises and that he should be evicted, the Estates Officer shall call upon such person by a notice in writing to produce any documentary or other evidence within a period of seven days from the date of issuance of such notice to prove that he had been duly authorized by the Competent

Authority to occupy such public premises failing which the person/persons shall be evicted after expiry date.

(2) When a person is served with a notice under sub-section (1), the burden of proving that he has been duly authorized to occupy public premises by the authority competent to do so shall be upon such person.

(3) The notice shall be serve upon such occupant by having it affixed on the outer door or some other conspicuous part of the public premises and also be published in at least two leading newspapers or in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly served to all persons concerned.

(4) Where the Estates Officer knows or has reasons to believe that more than one person is in occupation of the public premises, then, without prejudice to the provisions of sub-section (3) he shall cause a copy of the notice to be served on every such person in the manner as aforesaid.”

4. *Amendment in section 5.*—In section 5 of the Principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) If after a person who has been served with a notice to produce proof or evidence under section 4 fails to produce any such proof or evidence within the stipulated period, or if after considering the proof or evidence, if any, produced by him, the Estates Officer is satisfied that the public premises is in unauthorized occupation, the Estates Officer shall make an order of eviction for reasons to be recorded therein directing that the public premises shall be vacated, on such date as may be specified in the order, by such person or all such persons who may be in occupation thereof or any part thereof and cause

a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.”

5. *Amendment in section 12.*—In section 12 of the Principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) An appeal shall lie from every order of the Estates Officer made in respect of any public premises under section 5 or section 7 or section 8 or section 10 to the District Magistrate of the District in which public premises are situate.”

6. *Amendment in section 19.*—In section 19 of the Principal Act for the words “court” the words “civil court” shall be substituted.

(Sd.) ACHAL SETHI,  
Additional Secretary to Government,  
Department of Law, Justice and Parliamentary Affairs.

EXTRAORDINARY

REGD. NO. JK—33



**THE  
JAMMU & KASHMIR GOVERNMENT GAZETTE**

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Vol. 129] Srinagar, Sat., the 23rd July, 2016/1st Srav., 1938. [No. 16-3

---

Separate paging is given to this part in order that it may be filed as a  
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**PART III**

**Laws, Regulations and Rules passed thereunder.**

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GOVERNMENT OF JAMMU AND KASHMIR  
CIVIL SECRETARIAT—DEPARTMENT OF LAW, JUSTICE  
AND PARLIAMENTARY AFFAIRS

Srinagar, the 23rd July, 2016.

The following Act as passed by the Jammu and Kashmir State  
Legislature received the assent of the Governor on 23rd July, 2016 and  
is hereby published for general information :—

THE JAMMU AND KASHMIR STATE COMMISSION FOR  
BACKWARD CLASSES (AMENDMENT) ACT, 2016.

(Act No. IX of 2016)

[23rd July, 2016.]

An Act to amend the Jammu and Kashmir State Commission for  
Backward Classes Act, 1997.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-seventh Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir State Commission for Backward Classes (Amendment) Act, 2016.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. *Amendment of section 3, Act No. XII of 1997.*—In the Jammu and Kashmir State Commission for Backward Classes Act, 1997 (hereinafter referred to as ‘the principal Act’) in section 3, in sub-section (2),—

I. for clause (a), the following clause shall be substituted, namely :—

“(a) a Chairperson who has for at least two years held the post of a Commissioner/Secretary to the Government or equivalent ;” ;

II. for clause (c), the following clause shall be substituted, namely :—

“(c) an eminent lawyer who has an experience of ten years at Bar in the Supreme Court or the High Court and having knowledge of matters pertaining to social justice and empowerment of weak and underprivileged classes ;” ;

3. *Amendment of section 4-B, Act No. XII of 1997.*—In section 4-B of ‘the principal Act’,—

I. for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) The Chairperson and members shall be entitled to such salary, allowances and other conditions of services as may be prescribed.” ;



- II. sub-section (2) shall be omitted ; and
- III. sub-sections (3) and (4) shall be renumbered as sub-sections (2) and (3) respectively.

(Sd.) ACHAL SETHI,  
Additional Secretary to Government,  
Department of Law, Justice and Parliamentary Affairs.



EXTRAORDINARY

REGD. NO. JK—33



**THE  
JAMMU & KASHMIR GOVERNMENT GAZETTE**

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separate compilation.

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**PART II—B**

**Notifications, Notices and Orders by Heads of Departments.**

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GOVERNMENT OF JAMMU AND KASHMIR,  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
J&K, SRINAGAR.

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Present : Kossar Ahmad Qureshi, Presiding Officer

File No. 923/ITLC/14.

Date of Institution : 12-05-2014.

Date of Decision : 15-06-2016.

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In the case of :

Ajaz Ahmad Mir S/o Abdul Gani Mir R/o Drangbal, Pampore, Kashmir.

(Petitioner/Employee)

Versus

1. General Officer Commanding, HQ 15 Corps Q (Ops) C/O 56 APO,  
Srinagar, Kashmir.

2. Commanding Officer, Col. 7 RR, Badami Bagh Cantonment, Srinagar, Kashmir, C/o 56 APO, Srinagar, Kashmir.
  3. Lt. C/o 7 RR (Punjab) Badami Bagh Contonment, Srinagar, Kashmir C/o 56 APO, Srinagar, Kashmir.
  4. HQ. 31, Sub Area Commander, Badami Bagh Contonment, Srinagar, Kashmir, C/o 56 APO, Srinagar, Kashmir.
  5. Director Defense Procurement Officer, Sanat Nagar, Srinagar, Kashmir.
- (Respondent/Employers)

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In the Matter of :—        Reference under sub-section (2) of section 2A of  
the Amendment of 2010 of I. D. Act, 1947.

Apperaring Counsel  
Mr. Shabir A. Budoo, Advocate for Petitioner  
Memo for Respondents

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**ORDER/AWARD**

The brief facts of the instant case are that the petitioner being permanent resident of the State of Jammu and Kashmir, came to be engaged by the Respondent No. 03 as Porter on contractual/daily wage basis from the year 2005 w. e. f. 02/07/2005 by virtue of order dated 01/07/2005 issued by Respondent No. 03 and after his engagement, the petitioner was smoothly working as Porter without any service break and also wages were paid to the petitioner on each and every month and the last paid wages were Rs. 4600/- per month which was earlier paid by cash and later from the year 2011, the same was credited in the Saving Bank Account of the petitioner running in State Bank of India, B/O Chinar Shopping Complex, Badami Bagh Cantonment, Srinagar, Kashmir and later from the year 2012, the said wages were credited in the account running in Post Office Branch lying in the premises of Respondent No. 04, Srinagar, Kashmir. It is further stated that all of sudden, the Responants, in the month of January, 2013 restrained

the petitioner from entering in the office premises, by issuing instructions to the gate security officer and accordingly the petitioner was not allowed to enter into office premises since January, 2013 and thereafter did not allow the petitioner to perform his duty which the petitioner was performing since 02/07/2005 for the reason best known to them however the petitioner is not aware as to whether any order of disbanding of the petitioner from his services, has been passed by the Respondents or not nor any reasons or prior notice has been served upon the petitioner and ultimately the said illegal act of the Respondents constrained the petitioner to serve a legal notice to the Respondents on 30/01/2013 through Mr. Nazir Ahmad Beig, Advocate, J&K High Court, Srinagar, Kashmir and in response to the said legal notice, the Respondents have send a reply dated 21/02/2013 where through admitted that the petitioner was engaged as Porter but have wrongly mentioned that the petitioner was engaged since April, 2010 when in fact the petitioner has been engaged since 02/07/2005 however have mentioned in their reply that the petitioner has been disengaged w. e. f. December, 2012 and further have remained silent as to whether any formal order in this regard has been issued or not. After which the petitioner filed a petition before the Ld. Assistant Labour Commissioner, Srinagar on 26/03/2013 against the said disbanding of the petitioner from the services by the Respondents but the same was returned back by the Ld. Assistant Labour Commissioner, Srinagar for want of jurisdiction by observing that the Respondents are not falling within the definition of “Industry” and also for want of “appropriate Govt.”. Thereafter the petitioner approached to the Ld. Regional Commissioner (Central), Jammu, in response to that, the Ld. Regional Labour Commissioner (Central), Jammu vide his Letter No. 28 (Misc)/2013/RLC/Jammu dated 09-10-2013, returned the application back, to the petitioner, with a suggestion to the petitioner, to approach the Ld. Assistant Labour Commissioner, Srinagar for redressal of his grievances. Upon which the petitioner thereafter re-approached the Ld. Assistant Labour Commissioner, Srinagar, Kashmir with a fresh application for initiating conciliation proceedings for resolving the industrial dispute between the petitioner/employee and Respondents/employer. Upon receiving the said

fresh application, the Respondents were put to notice and filed their written objections to the said application by taking the same stand as was taken in the supra reply to the aforesaid legal notice and thereafter the Respondents did not turn up before the Ld. Assistant Labour Commissioner, Srinagar despite waiting for more than two to three months. It is further stated that despite lapse of said period of more than two to three months, the petitioner directly without wasting further time, filed the instant reference petition on 12/05/2014, before this Tribunal, in view of the provisions of sub-section (2) of section 2A of the I. D. Act which confers right to the petitioner to file a reference petition directly before this Tribunal after the expiry of 45 days from the date of receipt of application by the Conciliation Officer and the same provision empowers this Tribunal to entertain and adjudicate upon the issues and claim, prayed for, in the said reference petition.

Upon receiving the instant reference petition, the same has been registered and thereafter the Respondents were put to notice who caused their appearance and filed their written objections on 26/11/2014, same has been placed on record and through their aforesaid written objections, the stand of the Respondents is that the petitioner was engaged by the Respondent No. 03 as Casual Porters with 7 RR during the period from April, 2010 to December, 2012 and his appointment was purely need basis as such the petitioner can neither be reinstated nor can be permanently absorbed.

The Respondents later have chosen not to appear, consequently, the Respondents have been set in ex parte on 29/01/2015 resultantly the petitioner was directed to lead evidence in ex parte. Upon which the petitioner in addition to his own, has also produced 04 witnesses total 05 witnesses on affidavits and the same have been placed on record. These 04 witnesses are Sajad Ahmad Mir, Adil Ali Malla, Mohammad Ashraf Dar and Mohammad Ishfaq Bhat. All of them have narrated the same story in their respective affidavits and corroborated the stand of the petitioner in its totality and thereafter on the submission of the petitioner, the right of producing more evidence of the petitioner was closed on 06/05/2015 and the instant reference has been fixed for final arguments.

Heard the petitioner and perused the whole record file and after considering the whole record file, I feel it necessary that before going through the issues involved in the reference, which are 1) whether the termination of the petitioner from his services, by the Respondent is justified ? and 2) Whether the relief prayed for in the reference can be granted or not ? It is very necessary to go first through the two important issues which touching the basic requirements, for deciding the jurisdiction of this Tribunal for the instant reference. These are :—

1. Whether the Respondent's office, for the purpose of the dispute referred in this reference of the petitioner, is falling within the definition of the "Industry" under Industrial Dispute Act, 1947 ?
2. Whether the instant reference petition is maintainable in view of provisions of sub-section (2) of section 2A of the I. D. Act ?

These are the main legal issues which need to be considered by this Tribunal before adjudicating upon the factual issues referred to, in the instant reference petition.

So far as the first legal issue is concerned, i. e. whether the Respondent's office, for the purpose of the dispute referred to, in this reference of the petitioner, is falling within the definition of the "Industry" under Industrial Dispute Act, 1947 ? In response, I am of this opinion that the same depends upon the nature of the work done by the petitioner in the Respondent's office. If the work which was assigned to the petitioner i. e. the job of "Porter" is falling within the activity of the Government relatable to the sovereign function of the Government, then for the purpose of dispute referred to, in the instant reference petition, the Respondents are not falling within the definition of "Industry" in view of the Clause (6) of the Clause (i) of the definition of "Industry" laid down in section 02 under the Act otherwise, the Respondents are falling within the definition of "Industry" in view of the definition of "Industry" under the Act. Now to ascertain whether the nature of the job of "Porter" which the petitioner was assigned

by the Respondents, is an activity relatable to the Sovereign function of the Government or not ? In response, since the said job of “Porter” i. e. the Misc. Labour work e. g. gardening, watering plants and also to transport the essential commodities from one place to another in the Respondent’s premises at Badami Bagh, is not any activity relatable in any way directly or indirectly to sovereign function of the Government but is purely a distribution of goods for human consumption. The Porter’s job is totally different to all activities related to sovereign functions of the Government because for sovereign functions of the Government, all activities related to it, are permanent basis but not on need and requirement basis and since the Respondents in the present case in their aforesaid objections expressly and clearly stated that the job of porter assigned to the petitioner is temporary basis and also need and requirement basis so there is no activity relatable to sovereign function of the Government on temporary and need basis. There are two kinds of activities done in the Respondents premises, one those activities which are directly related to protect the sovereignty of the Government or State and so far as these activities are concerned, the Respondents are not falling within the definition of “Industry” under the Act but so far as activities other than these related to protection of the sovereignty of the Government, like Porter job i. e. like petitioner’s job, the same is not directly or indirectly the activity related to protecting the sovereignty of the State. So on these bases, for the purpose of the dispute referred to, in the instant reference, I am of this opinion that the Respondents are falling within the definition of “Industry” under the Act.

Now so far as the second issue is concerned i. e. whether the instant reference petition is maintainable in view of provisions of sub-section (2) of section 2A of the I. D. Act in view of I. D. Amendment Act, 2010 ? In response, I am of this opinion that since after verbal disbanding of the petitioner from his services, by the Respondent, the petitioner went pillar to post for redressal of his grievances against his verbal termination from his services. Initially the petitioner sent a legal notice to Respondents, thereafter approached the Ld. Assistant Labour Commissioner, Srinagar who initially



returned back the said petition by stating that the Respondent is not falling within the definition of “Industry” and also want of appropriate Government and subsequently the petitioner approached the Ld. Regional Commissioner (Central), Jammu, in response to that, the Ld. Regional Labour Commissioner (Central), Jammu vide his letter No. 28 (Misc)/2013/RLC/Jammu dated 09-10-2013, returned the application back, to the petitioner, with a suggestion to the petitioner, to approach the Ld. Assistant Labour Commissioner, Srinagar for redressal of his grievances and accordingly the petitioner reapproached the said Ld. Assistant Labour Commissioner, Srinagar with a fresh application for redressal of his said grievances along with reply to the above said two quarries which earlier was raised by Ld. Assistant Labour Commissioner, Srinagar but at this time, after his satisfaction over reply to said two quarries, the Ld. Assistant Labour Commissioner, Srinagar initiated the proceedings by issuing a notice to the Respondents who later appeared and submitted their written objections to the said application and later chosen not to appear and subsequently when the Ld. Assistant Labour Commissioner, Srinagar failed to submit the failure report within the period of 45 days despite lapse of more than two/three months, the petitioner in view of above referred provision incorporated in the said Act by the Govt. of India in 2010 which is in force w. e. f. 15th day of September, 2010 by virtue of notification issued by Ministry of Labour and Employment, Notification No. S. O. 227(E) dated September 15, 2010 published in the Gazette of India, Extra. dated 15th September, 2010, P. I. No. 1928, the petitioner without wasting any further time presented the instant reference petition before this Tribunal. Under the said amended Act, 2010, this Tribunal has powers to entertain and receive a reference petition directly from the workman after expiry of 45 days, from the date of receipt of application by the Conciliation Officer of the appropriate Government.

Now since after the expiry of 45 days, a right accrued to the petitioner under the aforesaid amendment of 2010 to approach directly to this Tribunal with a reference petition but question here arises that whether the Ld. Assistant Labour Commissioner, Srinagar who acted as Conciliation Officer in the instant

reference prior to the presentation of the instant reference before this Tribunal, has jurisdiction to act as Conciliation Officer in the instant matter the same depends upon whether the appropriate Govt. for the Respondent Industry is State Government or Central Government. In response, I am of this opinion that it is immaterial to this Tribunal whether the appropriate Govt. for the present reference is State Govt. or Central Govt. because under the Act, this Tribunal has jurisdiction for both State Govt. as well as Central Government. But for the maintainability of the present reference which has been presented before this Tribunal directly by the petitioner without reference by the appropriate Government because of the aforesaid amendment of 2010 but the material point is that the instant reference moved under amendment of 2010, is only maintainable when this reference petition is moved after the expiry of 45 days from the date of receipt of the application by the Conciliation Officer of the appropriate Government, the same fact is proved from the record that the instant reference petition has been moved before this Tribunal after the expiry of 45 days from the date of receipt of the application from the petitioner, by the Ld. Assistant Labour Commissioner, Srinagar and subsequently by Regional Labour Commissioner (Central), Jammu and then again by the Ld. Assistant Labour Commissioner, Srinagar but the question here arises whether the Assistant Labour Commissioner, Srinagar has powers to intervene in the dispute referred to, in the instant reference petition, the answer is certainly 'yes' because had he not having such powers for the purpose of the dispute with reference to the instant petition, then he would not have entertained the said application nor he would have acted upon nor he would have issued a notice to the Respondents. And nor the Ld. Regional Labour Commissioner (Central), Jammu would have suggested the petitioner to approach the Ld. Assistant Labour Commissioner. Besides that undisputedly the Ld. Assistant Labour Commissioner and Dy. Labour Commissioner, Kashmir is the referral authority and also Conciliation Officers in view of THE INDUSTRIAL DISPUTES (JAMMU AND KASHMIR STATE) RULES, 1972 read with S. R. O. 405 OF 1986 dated 18/07/1986 Labour, Stationary and Printing Department while as the Chief Labour Commissioner (Central) and the

Assistant Labour Commissioner (Central) are the only referral authorities but not Conciliation Officers for dispute related to industry for which the appropriate Government is Central Government. in view of sub-clause (f) of section 02 of the “INDUSTRIAL DISPUTES (CENTRAL) RULES, 1957”. In said Rules framed by Central Government, there is no talk of appointment of Conciliation Officers but is only talk of Referral Authorities. Conciliation Officers and the Referral Authorities were earlier one and a same thing under the Central Industrial Dispute Rules, 1957 but prior to the amendment of 2010 however after the amendment of 2010 of the Act, the said two terms have now become two different terms because prior to said amendment of 2010, the reference petition can’t be filed directly before this Tribunal without the reference by the Referral Central Government but after submitting the failure report to the appropriate Government by the Referral Authorities of the Central Government, under aforesaid rules, the Referral Authorities of the Central Govt. were submitting failure reports to the Central Government and thereafter the appropriate Government was later were making reference of the Industrial Dispute, for adjudication, to this Tribunal that is why the said Referral Authorities were earlier acting as in dual capacity i. e. as Conciliation Officers as well as Referral Authorities under the Act but after the amendment of 2010, the said rules framed by Central Government has become partly redundant because after such amendment the making of reference of the Industrial Dispute by above said Referral Authorities are not now sine quo non (Pre requisite formality) for referring the Industrial Dispute to the Central Govt. who later would have referred the same to this Tribunal. None of the officer has been appointed as Conciliation Officer by the Central Government for the purpose of the amendment of 2010 of the Act especially for the purpose of amendment of sub-section (2) of section 2A of the I. D. Act. No doubt that the above said officers of the Labour Department of Central Government are Referral Authorities under the aforesaid rules but not Conciliation Officers for the purpose of amendment of sub-section (2) of section 2A of the Act incorporated by amendment of 2010 by Govt. of India. But despite of that the petitioner has approached the Ld. Assistant Labour Commissioner, Srinagar at the

first instance and then to the Regional Labour Commissioner (Central), Jammu and then again to Ld. Assistant Labour Commissioner, Srinagar and after which to this Tribunal, after the expiry of more than 02/03 months from the date of receipt of the application by the Ld. Assistant Labour Commissioner as such the conditions laid down in the sub-section (2) of section 2A of the I. D. Act has been strictly complied with as such this Tribunal has jurisdiction under sub-section (2) of section 2A of the I. D. Act, to adjudicate upon the instant reference petition.

Now coming to the factual and substantial issues of the matter these are as under :—

- (1) Whether the termination of the petitioner from his services by the Respondent, is justified ?
- (2) Whether the relief prayed for in the reference can be granted or not ?

So far as the Issue No. 01 is concerned, I am of this opinion that since the petitioner being permanent resident of the State of Jammu and Kashmir, came to be engaged by the Respondent No. 03 as Porter on contractual/ daily wage basis from the year 2005 w. e. f. 02/07/2005 by virtue of order dated 01/07/2005 issued by Respondent No. 03 and after his engagement, was smoothly working as porter without any service break and also wages were paid to the petitioner each and every month and the last paid wages were Rs. 4600/- per month which was earlier paid by cash and later from the year 2011 the same was credited in the Saving Bank Account of the petitioner running in State Bank of India, B/O Chinar Shopping Complex, Badami Bagh Cantonment, Srinagar, Kashmir and later from the year 2012 the said wages were credited in the account running in Post Office Branch lying in the premises of Respondent No. 04, Srinagar, Kashmir but later all of sudden, the petitioner has been disbanded verbally w. e. f. January, 2013 without assigning any reason and also without any prior notice, after which

a legal notice was served upon the Respondents, to which, the Respondents have also replied the same, the copy of which is on record, where through admitted that the petitioner was engaged as Porter but have mentioned that the petitioner was engaged since April, 2010 and has been disengaged w. e. f. December, 2012 but have remained silent about the passing of any order of termination in writing. However since the petitioner's stand is that he has been engaged since 02/07/2005 and since then was continuously working there as Porter and in support of this, the petitioner has produced four witnesses, in addition to his own statement, all of them corroborated the stand of the petitioner. Now the question whether the petitioner was engaged since 02/07/2005 or from April, 2010 but it is admitted fact the petitioner has been disbanded w. e. f. December, 2012. Taking April, 2010 as date of engagement instead of 02/07/2005 as date of engagement, as such on the basis of such admission on the part of the Respondents, it shows that the petitioner has worked with the Respondents since April, 2010 to December, 2012 i. e. for more than 240 days for a calendar year as such under law a petitioner is a protected workman and a statutory right has accrued to him under section 25B and 25F of the Act by virtue of which the petitioner cannot be disengaged from his services, by the Respondents, without following the due procedure laid down under section 25B and 25F of the Act and any dereliction from such set procedure makes the termination order illegal, and bad in the eyes of law as such being that legal position, the termination of the petitioner from his services, by the Respondent is illegal, invalid, unwarranted and uncalled for and against the principle of natural justice. In view of the above facts and circumstances, the petitioner has rendered services for more than 240 days in calendar year as required as such is protected workman in terms of Act as such since statutory obligation casts upon the Respondent to assign reasons for termination and to give prior notice to the petitioner before terminating his services, which has not been done in the present case but in turn the Respondent has terminated the services of the petitioner in gross violation of the provisions of section 25B and 25F of the Act. In support of this,

the petitioner relied upon case law, Titled Ramesh Kumar V/s. State of Haryana at Para No.13 (AIR 2010 SC 683) in which the Hon'ble Apex Court held as under :—

“It is to be noted that in the case of termination of casual employee what is required to, be seen is whether a workman has completed 240 days in the proceeding twelve months or not. If sufficient materials are shown that workman has completed 240 days then his service cannot be terminated without giving notice or compensation in lieu of it in terms of section 25F. The High court failed to appreciate that in the present case appellant has completed 240 days in the preceding 12 months and no notice or compensation in lieu of it was given to him, in such circumstances, his termination was illegal”.

Since there is nothing sustainable accepting the averment that the petitioner had left the service at his own as such from the above referred provision and also the above referred Judgment of the Hon'ble Apex Court, I reached on this conclusion that the termination of the petitioner from his services, by the Respondents, is illegal, invalid, unwarranted and uncalled for and against the principle of natural justice. Therefore, the termination of the petitioner by Respondents, is hereby set aside and Respondents are directed to reinstate the petitioner forthwith.

Now coming to the Issue No. 02, the Issue No. 02 was dependent upon the Issue No. 01 and since for the aforesaid reasons the termination of the petitioner from his services, by the Respondents, has been declared as illegal, invalid, unwarranted and uncalled for and against the principle of natural justice, and has been ordered to be reinstated forthwith and since the petitioner is fighting for his re-instatement from last 04 years before different forums and this Tribunal and since the petitioner has stated that he is not employed anywhere during this period and in support of this, the petitioner has furnished an affidavit to that extent, to this Tribunal and more so since the petitioner has suffered a lot during this long period of 04 years

during which the petitioner not only suffered financially but also mental agony as such under these peculiar circumstances, the petitioner is entitled for all full back wages since his termination which the petitioner is entitled under law, relying upon the Judgment of Hon'ble Apex Court Titled Hindustan Tin Works V/s. Its Employees (AIR 1979 S. C. 75) in which the Hon'ble Apex Court in para No. 09, 10 and 11 held as under :—

“It is no more open to debate that in the field of Industrial Jurisprudence a declaration can be given that the termination of service is bad and the workman continues to be in service. The spectre of Common Law doctrine that contract of personal service cannot be specifically enforced or the doctrine of mitigation of damages does not haunt this branch of law. The relief of reinstatement with certainty of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be in the wrong as a result of which the workman is directed to be reinstated, the employer could not shirk his responsibility of paying the wages which the workman has been deprived of by the illegal or invalid action of the employer. Speaking realistically, where termination of service is questioned as invalid or illegal and the workman has to go through the gamut of litigation, his capacity to sustain himself throughout the protracted litigation is itself such an awesome factor that he may not survive to see the day when law's proverbial delay has become stupefying. If after such a protracted time and energy consuming litigation during which period, the workman sustains himself, ultimately he is to be told that though he will be reinstated, he will be denied to back wages which would be due to him, the workman would be subjected to a sort of penalty for no fault of his and it is wholly undeserved. Ordinarily, therefore, a workman whose service has

been illegally terminated would be entitled to be full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted letigative activity of the employer. If the employer terminates the service, the service illegally and the termination is motivated as in this case ; viz. to resist the workman's demand for revision of wages, termination may well amount to unfair labour practice. In such circumstances reinstatement being the normal rule it should be followed with full back wages. Articles 41 and 43 of the Constitution would assist us in reaching a just conclusion in this respect..... In this very nature of things there cannot be a strait-jacket formula for awarding relief of back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure. At that stage, the Tribunal will exercise its discretion keeping in view all the relevant circumstances.”

For the foregoing reasons, the issue No. 02 is also decided in favor of the petitioner and against the Respondents as such the petitioner is entitled to all full back wages including the period from his termination till the petitioner resumes his services with all benefits.

Accordingly the Respondents are directed to re-instate the petitioner forthwith and with a further direction to Respondents to pay the aforesaid full back wages in favor of the petitioner within a period of three months failing which thereafter the Respondents have to pay the said full back wages to the petitioner along with interest @ 08% till final realization.

The reference petition filed by the petitioner, in view of amendment of sub-section (2) of section 2A of the Industrial Dispute Act, 1947 incorporated by amendment of 2010, is answered accordingly. Copy of this



award be sent to the Appropriate Government through its Commissioner/ Secretary, Labour Department for information and publication in the Government Gazette.

File after its due compilation be consigned to records.

Announced :

Dated : 15-06-2016.

(Sd.) KOSSAR AHMAD QURESHI,

District and Sessions Judge,  
Presiding Officer,  
Industrial Tribunal/Labour Court,  
J&K, Srinagar.



EXTRAORDINARY

REGD. NO. JK—33



**THE  
JAMMU & KASHMIR GOVERNMENT GAZETTE**

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Vol. 129] Srinagar, Mon., the 25th July, 2016/3rd Srav., 1938. [No. 16-10

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Separate paging is given to this part in order that it may be filed as a  
separate compilation.

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**PART II—B**

**Notifications, Notices and Orders by Heads of Departments.**

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GOVERNMENT OF JAMMU AND KASHMIR,  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
J&K, SRINAGAR.

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Before : Kossar Ahmad Qureshi (District and Sessions Judge)

File No. 779/ITLC/2004.

Date of Institution : 01-07-2004.

Date of Decision : 20-04-2016.

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Shamim Ahmad Mir S/o Gh. Mohi-ud-Din C/o Mir Scientific Agency,  
Gowkadal Band (Lock Gate), Maisuma Bazar, Srinagar, Kashmir.

Petitioner (Applicant)

Versus

Management of Acharya Shri Chander College of Medical Sciences  
and Hospital, N. H., Bye-Pass, Bahu Fort, Sidhra, Jammu.

Respondent ( Non-applicant) \_\_\_\_\_

In the Matter of :—        Reference under section 10 of Industrial Dispute Act, 1947.

Appearance :—Petitioner present in person.

Nemo for the Respondent

\_\_\_\_\_

### AWARD

This case referred to this Court/Tribunal by the Government of Jammu and Kashmir under section 10 (1) C of the I. D. Act, 1947 vide SRO No. 183 dated 21-06-2004 for adjudication on the following points :—

1. Legality or other wise of the action of the management of Acharya Shri Chander College of Medical Sciences and Hospital, Bahu Fort, Sidhra, Jammu in terminating the service of its workman, namely Shri Shamim Ahmad Mir ; and
2. Award/appropriate relief to the said workman in case the illegality of the action of the management is established.

This Court after receipt of the reference, summoned the parties. The petitioner appeared in person where as the respondent appeared through counsel which was objected by the petitioner. Since the respondent Medical College is Jammu based, the case was initially heard at Jammu. Then the applicant (petitioner) filed an application with the prayer that his case be heard at Srinagar being a resident of the Valley. The respondent filed objections but the matter was decided in favour of the applicant being the genuine prayer made by the applicant.

However, the respondent's assailed the order of this Court before the Hon'ble High Court in a writ petition but was dismissed and the order of this Court was upheld and confirmed. The case was then heard at Srinagar.

The petitioner filed his claim petition before this Court on 18-08-2004 and has submitted that he was employed by the respondent in his Hospital as X-Ray Assistant on a consolidated salary of Rs. 2000/- per month in the year 1998 and continued till 21-06-2002 but suddenly he was terminated from the services vide Order No. ASCOMS/ADM/DA/622 dated 21-06-2002. He has further stated that his services were terminated by the respondent without following the provisions of law as such the order of termination is illegal. He has also stated that at the time of his appointment he was assured by the respondent that after 2 to 3 months he will be placed in graded salary but inspite of repeated requests he was not placed in the grade salary and was not even given the risk and radiation allowance though the same allowances were being given by other Medical Colleges/Hospitals to its employees performing the same nature of job. Therefore the applicant has prayed that his services be reinstated along with the payment of all back wages.

The respondent opposed the claim petition by filing their objections and have stated that the petitioner was appointed on probation by the respondent on 17-07-1998 and continued to be so till his termination ; they have stated that the petitioner was guilty of gross misconduct and his work and conduct always remained unsatisfactory. He was afforded opportunities to improve his work to the entire satisfaction of the respondent but he failed to do so with the result there was no alternative but to disband him from the service. As the respondent institution is a private college and wholly and solely depend on the good performance of its employees. Therefore the respondent prayed for dismissal of the claim of the petitioner with costs.

After filing the objections, the respondent remained absent from the proceedings and did not participate in the proceedings with the result the respondent were set on ex parte and the petitioner was directed to produce the evidence. The petitioner, has produced only one witness namely Surjeet Singh besides himself as his own witness.

The Petitioner's witness Surjeet Singh in his evidence has stated that he knows the applicant as he too was working with the applicant in the respondent's college and stated that the petitioner had worked in the respondent's college for about four years continuously and he was a trained X-Ray Technician and was working to the entire satisfaction of patients. The petitioner had demanded graded salary from the respondent repeatedly but was refused. The respondent college instead to accede the request of the applicant leveled false allegation against him terminated him from the service without giving him any notice or compensation in lieu of the notice.

The petitioner too has proved his claim. The main issue raised to by the respondent's in their objections was regarding maintainability of the petitioner.

The applicant has initially assailed his termination before the Ld. Assistant Labour Commissioner, for holding the conciliation proceedings who has been conferred the powers by the Government of J&K, by virtue of SRO-405 of 1986 dated 18-07-1986, by the Labour, Stationery and Printing Department and later when such conciliation failed, the Ld. Conciliation Officer (ALC) submitted the confidential failure report to the State Government and accordingly the State Government referred the same to this Court by virtue of SRO No.183 dated 21-06-2004, for adjudication. As such the due procedure has been adopted before making of its reference, to this Tribunal.

So far as the Issue No. 01 is concerned, the same is a mixed question of fact and law. The record file reveals that undisputedly the petitioner was engaged as X-Ray Technician on 17-07-1998 on the monthly wages of Rs. 2000/- and on 21-06-2002 without assigning any reasons and without any prior notice, terminated the services of the petitioner. The admitted position is that the petitioner has continuously worked with the respondent from 17-07-1998 to 21-06-2002 meaning thereby that he had continuously worked for more than (3) three years as such, the petitioner is a protected workman in terms of section 25B and 25F of the Industrial Dispute Act.

A statutory obligation is casted upon the respondent under the said provisions by virtue of which the petitioner cannot be disengaged from his services, without following the due procedure laid down under section 25B and 25F of the Act and any violation from such set procedure makes the termination order illegal, and bad in the eyes of law. Being the legal position, as such the termination of the petitioner from his services, without following the law as stated above is illegal, invalid, unwarranted and uncalled for and against the principle of natural justice as the petitioner has rendered services more than the required days of 240 days in calendar year. The respondent were duty bound to assign reasons for termination and to give then notice to the petitioner before terminating his services, which has not been done in the present case. No inquiry, no show cause or any opportunity of being heard was ever afforded to the applicant. Therefore in absence of these rules the termination of the petitioner is in gross violation of the provisions of section 25B and 25F of the I. D. Act . More so there is nothing on record suggesting that the petitioner had left the service at his own. Therefore the termination of the petitioner from his services, by the respondent is declared as illegal, invalid, unwarranted and uncalled for and against the principle of natural justice. The Issue No. 1 in the reference is accordingly decided in favour of the applicant and against the respondent.

Now coming to the Issue No. 02, The Issue No. 02 was dependent upon the Issue No. 01 and since for the aforesaid reasons the termination of the petitioner from his services, by the respondents, has been declared as illegal, invalid, unwarranted and uncalled for and against the principle of natural justice, and has been ordered to be reinstated forthwith and since the petitioner is fighting for his reinstatement from last 12 years before different forums and this Tribunal and since the petitioner has stated that he is not employed anywhere during this period and more so since the petitioner has suffered a lot during this long period of 12 years during which the petitioner not only suffered financially but also mental agony as such under these peculiar circumstances, the petitioner is entitled for all full back wages since his termination which the petitioner is entitled under law, relying upon

the Judgment of Hon'ble Apex Court Titled Hindustan Tin Works V/s. Its Employees (AIR 1979 S. C. 75) in which the Hon'ble Apex Court in para No. 09, 10 and 11 held as under :—

“It is no more open to debate that in the field of Industrial Jurisprudence a declaration can be given that the termination of service is bad and the workman continues to be in service. The spectre of Common Law doctrine that contract of personal service cannot be specifically enforced or the doctrine of mitigation of damages does not haunt this branch of law. The relief of reinstatement with certainty of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be in the wrong as a result of which the workman is directed to be reinstated, the employer could not shirk his responsibility of paying the wages which the workman has been deprived of by the illegal or invalid action of the employer. Speaking realistically, where termination of service is questioned as invalid or illegal and the workman has to go through the gamut of litigation, his capacity to sustain himself throughout the protracted litigation is itself such an awesome factor that he may not survive to see the day when law's proverbial delay has become stupefying. If after such a protracted time and energy consuming litigation during which period, the workman sustains himself, ultimately he is to be told that though he will be reinstated, he will be denied to back wages which would be due to him, the workman would be subjected to a sort of penalty for no fault of his and it is wholly undeserved. Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to be full back wages



except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted letigative activity of the employer. If the employer terminates the service, the service illegally and the termination is motivated as in this case ; viz. to resist the workman's demand for revision of wages, termination may well amount to unfair labour practice. In such circumstances reinstatement being the normal rule it should be followed with full back wages. Articles 41 and 43 of the Constitution would assist us in reaching a just conclusion in this respect..... In this very nature of things there cannot be a strait jacket formula for awarding relief of back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure. At that stage, the Tribunal will exercise its discretion keeping in view all the relevant circumstances”.

For the foregoing reasons, the Issue No. 02 is also decided in favour of the petitioner and against the respondents as such the petitioner is entitled to all full back wages including the period from his termination till the petitioner resumes his services with all benefits.

Accordingly, the respondents are directed to reinstate the petitioner forthwith and with a further direction to respondents to pay the aforesaid full back wages in favour of the petitioner within a period of three months failing which thereafter the respondents have to pay the said full back wages to the petitioner along with interest @ 08% till final realization.

Reference is answered accordingly and an award is accordingly passed in favour of the petitioner and against the respondent. Copy of award be sent to the appropriate Government through its Commissioner/Secretary,

Labour Department for information and its publication in Government Gazette.

The file, after due completion, be consigned to records.

Announced :

Dated : 20-04-2016.

(Sd.) KOSSAR AHMAD QURESHI,

Presiding Officer,  
District and Sessions Judge,  
Industrial Tribunal/Labour Court,  
J&K, Srinagar.



**THE  
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 129] Srinagar, Tue., the 30th Aug., 2016/8th Bhad., 1938.[No. 21-1

Separate paging is given to this part in order that it may be filed as a  
separate compilation.

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**PART III**

**Laws, Regulations and Rules passed thereunder.**

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HIGH COURT OF JAMMU AND KASHMIR  
(Office of the Registrar General at Srinagar)

Notification

No. 578 dated 30-08-2016

In exercise of the powers conferred by section 108 of the Constitution of Jammu and Kashmir, the Chief Justice of the High Court of Jammu and Kashmir is pleased to frame the following Scheme/Guidelines for the appointment of Research Assistant to the Chief Justice/Judges in the High Court of Jammu and Kashmir :—

1. *Short Title.*—The Scheme/Guidelines provided hereinafter shall be known as “Scheme/Guidelines for the Appointment of Research Assistant to the Chief Justice/Judges in the High Court of Jammu and Kashmir”. It shall come into force from the date of publication in the Government Gazette.

2. *Definitions.*—Unless there is anything repugnant in the subject of context,—

- (i) “Chief Justice” means the Chief Justice of the High Court of Jammu and Kashmir ;
- (ii) “Judge” means Judge of the High Court of Jammu and Kashmir ;
- (iii) “University” means the University established by law in the Indian Union ;
- (iv) “Website” means the Official Website of the High Court of Jammu and Kashmir, ([www.jkhighcourt.nic.in](http://www.jkhighcourt.nic.in)).

3. *Appointing Authority.*—The appointing authority for the assignment as Research Assistant to the Chief Justice/Judges shall be the Chief Justice.

4. *Age.*—A Candidate must not have attained the age of 30 years as on 1st January/1st July, preceding the last date fixed for submission of applications.

5. *Eligibility.*—(i) The candidate must be a permanent resident of the State of Jammu and Kashmir.

(ii) The candidate must be a Law Graduate (as on the date of appearing at interview) having a Bachelor’s Degree in Law (including integrated Degree Course in Law) from any School/College/University/Institute established by Law in India and recognized by the Bar Council of India for enrolment as an Advocate, possessing a minimum of 55% marks in aggregate at Law Graduation (including integrated Degree Course in Law) and should not have completed one year after enrolment as an Advocate.

(iii) Candidates studying in the final year/last semester of their Law Course will also be eligible to apply subject to furnishing proof of acquiring

the Law Degree qualification with minimum 55% marks in aggregate at the time of interview.

(iv) The candidate must have knowledge of Computer, including retrieval of desired information from various search engines/processes such as Manupatra, SCC Online, LexisNexis, Westlaw etc.

6. *Period of Assignment and De-assignment of Research Assistant.*—(i) Research Assistant will be a contractual appointee and his/her engagement shall be initially for a period of one year from the date of taking up his/her assignment, which can be extended for a further period of not exceeding one year, subject to the approval of the Chief Justice or the Committee nominated by the Chief Justice.

(ii) However, the assignment of any Research Assistant may be discontinued even before the completion of one year, if his/her services are found to be unsatisfactory.

(iii) The candidate should join his/her assignment of Research Assistant within the period specified in his/her order of appointment. No request for extension of time for joining the assignment of Research Assistant will be entertained.

(iv) Research Assistant shall not be treated or deemed to be a regular employee in the Services of the High Court of Jammu and Kashmir.

(v) Any Research Assistant intending to leave the assignment as Research Assistant within a period of one year or extended period shall be required to give prior notice of one month with prior intimation to the Judge to whom attached.

7. *Selection Process.*—(i) Selection process for engaging Research Assistant shall be initiated by inviting applications online from eligible candidates by way of publishing an advertisement notifying requirements.

(ii) Ordinarily in the month of August every year, the Registry, depending on vacancy position, will invite applications which are required

to be submitted online with scanned signature and photograph. Applicants studying in fifth year of the five year Integrated Law Course will have to submit attested copies of their grade sheet/marks card/transcripts until the end of the fourth year.

(iii) Application fee of Rs. 200/- and bank charges, as applicable, shall be charged on each online application and payment shall be made online.

(iv) Applications received along with fee on or before the last date for receipt of applications and found to be in order in all respects be considered and only such applications will be processed further.

(v) The selection process shall consist of two stages : first a Written Examination to be conducted simultaneously at Jammu and Srinagar at such test centres as may be notified from time to time. The question paper for the Written Examination, consisting of 150 questions with multiple choice answers, shall comprise of two Sections with the following components :—

### Section-1 :

Questions relating to General English – 50 marks  
and General Aptitude/Awareness

## Section-2 :

Questions relating to Constitution of India, – 100 Marks  
Constitution of J&K, Ranbir Penal Code,  
Criminal Procedure Code,  
Civil Procedure Code and Evidence Act etc.

Each question shall carry one mark. The minimum qualifying marks for the said Written Test shall be 60% in aggregate with minimum 50% marks in each of the above two Sections. The duration of the Written Examination shall be three hours.

After drawing the list, the candidates will be short listed for interview in the ratio of 1:3 depending upon the number of vacancies to be filled up :

Provided that if the number of applications received is equivalent to or less than the above ratio, holding of the Written Examination shall be dispensed with.

**Personal Interview.**—A Committee of two Judges constituted by the Chief Justice will interview the eligible candidates. The interview will carry 30 marks with 15 marks being minimum qualifying marks. In addition to being a General Interview, the candidates will also be asked questions relating to Law.

The candidate must have absolute integrity, honesty and good moral character, for which he/she will submit certificate of two responsible persons at the time of interview.

On the basis of the aggregate marks secured by the candidates in the Written Test (if conducted) and interview, a merit list shall be drawn where from the Committee of Judges will recommended the candidates, in order of merit, to be kept on the panel of Research Assistants for assignment. The merit list drawn will have one year validity from the date of its publication.

The waiting list to be drawn shall also have one year validity.

After receipt of the recommendations of the Committee, the Chief Justice will approve formation of a panel as per requirement for the assignment session and order for attachment of one Research Assistant to each of the Judges including the Chief Justice himself, according to seniority. The formal order in this regard shall, however, be issued by the Registry.

8. *Undertaking.*—Before taking over assignment, Research Assistant shall submit an undertaking, in the format as prescribed in Schedule-I, from time to time before the Registrar General.

*9. Duties and Responsibilities assigned to Research Assistant.—*

—The duties and responsibilities of Research Assistant shall be to assist the Judge with whom he/she is attached, in the discharge of his/her functions, particularly in the research work and maintenance of records, and shall include such other official duties as may be assigned by the Judge.

*10. Record of Attendance of Research Assistant.—*(i) The Research Assistant should mark his/her attendance in the Attendance Register kept in the Room of the Assistant Registrar (Admn.) in the respective Wing of the High Court of Jammu and Kashmir, before he/she proceeds to the Chamber of the respective Judge, to whom he/she is attached.

(ii) If, any of the Research Assistants is directed to attend the work at the Official Residence of the Judge or elsewhere, the Secretary or in his absence, the Private Secretary to the Judge, shall endorse the request of the Research Assistant and forward the same to the Assistant Registrar (Admn.) in the respective Wing of the High Court of Jammu and Kashmir for marking the same in the Attendance Register.

*11. Leave Entitlement.—*(i) Research Assistant shall be entitled to one day Casual Leave on completion of one Calendar Month. The unavailed Casual Leave in a particular month may be carried forward, subject to maximum eligibility of 12 days in a Calendar Year.

(ii) However, he/she will be permitted to proceed on Casual Leave with prior intimation to the Judge to whom he/she is attached.

(iii) In extreme difficult situations, the Chief Justice may relax the limit of Casual Leave as he may deem fit in the peculiar circumstances of a given case subject to proportionate deduction in the monthly honorarium of the concerned.

*12. Honorarium.—*(i) Each Research Assistant shall be paid a consolidated amount of Rs.15,000/- (Rupees fifteen thousand only) per month as Honorarium for his/her assignment.



(ii) Research Assistant shall not be entitled to any other allowances or perks.

13. *Bar to Practice as Advocate or Taking up Employment.*—(i) No Research Assistant during the currency of his/her assignment shall be entitled to practice as an Advocate in any Court of Law or Tribunal or Authority and it will be obligatory for him/her after accepting the assignment as Research Assistant to inform the Bar Council concerned, in writing, that he/she shall not practice as an Advocate as long as he/she continues with the assignment as Research Assistant.

(ii) The Research Assistant during the currency of his/her assignment shall not be entitled to take up any employment, engagement of whatsoever nature either on full time or part time basis.

(iii) The Research Assistant shall refrain from practicing before the Judge/Judges with whom he/she was attached for a period of two years after relinquishment of his/her assignment as Research Assistant.

14. *Conduct of Research Assistant.*—(i) Every Research Assistant shall maintain a high standard of reputation and integrity commensurate with the responsibilities entrusted to him/her at all times.

(ii) Similarly, during the period of assignment and at all times, the Research Assistant shall maintain complete confidentiality regarding the work assigned to him/her by the Hon'ble Judge. He/she shall maintain utmost confidentiality in respect of matters which come to his/her notice by virtue of such assignment and shall ensure that no information or document is leaked out because of his/her mishandling of papers or his/her deliberations with others, or in any other manner.

15. *Access available to Research Assistant.*—A Research Assistant would be permitted to have access to the Court Hall and Judges' Library. However, with prior permission from the Judge, he/she can have access to the Computer and Internet in the Chamber of the Judge with whom he/she is attached.

16. *Dress Code for Research Assistant.*—(i) For Male Research Assistant—Black Full Pant, White Shirt (Full Sleeves) with Black Tie and Black Shoes.

(ii) For Female Research Assistant – White Blouse with Light Colour Saree (or) White Salwar Kameez with Black Duppatta.

(iii) Black Sweater and Black Coat, if and when needed.

17. *Interpretation.*—If, at any time, there arises any doubt regarding the application or interpretation of this Scheme/Guidelines, the same shall be decided by the Chief Justice, whose decision shall be final.

(Sd.) ASHOK KUMAR KOUL,

Registrar General.

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*Schedule-I*

**UNDERTAKING**

I, .....do hereby undertake and accept the following terms and conditions of my assignment as Research Assistant :—

- (a) I have been engaged purely on contractual basis and no claim as an employee of the Court shall be made by me.
- (b) My period of assignment can be terminated without any notice. I shall not give up my assignment as Research Assistant before completion of my term of assignment. If I give up the assignment with one month prior notice before completing my term, I shall not be entitled to any experience certificate.
- (c) I shall render duty at the Court/Chambers/Residential Office of Hon'ble the Chief Justice/Hon'ble Judge of the High Court of Jammu and Kashmir according to the convenience of His Lordship and the duty hours shall be such as prescribed by the concerned Hon'ble Judge. I shall be punctual in attending to my duties.
- (d) I shall be granted such leave of absence as may be approved by the Hon'ble Judge to whom I am attached, subject to a maximum of fraction of 12 days per year, vis-a-vis my period of assignment.
- (e) I shall not absent myself from duty without prior permission of the Hon'ble Judge. In case of absence due to sudden illness or some other unforeseen circumstances beyond control, I shall give intimation thereof at the Residential Office of Hon'ble Judge without delay. I understand that no stipend will be paid for any unauthorized absence from duty as also for days exceeding permissible leave.

- (f) I shall maintain a high standard of reputation and integrity commensurate with the responsibilities entrusted to me. I shall maintain utmost secrecy in respect of matters which come to my notice by virtue of the assignment and shall ensure that no information, document or any other thing is leaked out because of mishandling of papers or my deliberations with others, or in any manner.
- (g) At all times i. e. even after the completion of the assignment, I shall maintain complete secrecy regarding the work assigned to me by the Hon'ble Judge.
- (h) I understand that I shall be governed by the provisions of the Ranbir Penal Code and the Jammu and Kashmir State Official Secrets Act, 1977 (1920 A. D.) as applicable to any public servant.
- (i) I shall not practice as an Advocate in any Court of Law during the course of assignment as Research Assistant.
- (j) I shall also refrain from practicing for a period of two years before the Hon'ble Judge/Hon'ble Judges with whom I have been attached after relinquishing of assignment as Research Assistant.

In addition, I do hereby affirm that I have carefully read the SCHEME/GUIDELINES FOR THE APPOINTMENT OF RESEARCH ASSISTANTS TO THE CHIEF JUSTICE/JUDGES OF THE HIGH COURT OF JAMMU AND KASHMIR, 2016 and have fully understood the provisions contained therein. I understand and do undertake that I am bound by the provisions contained in the abovesaid Scheme and that I will abide by the provisions contained in it during the course of my assignment as Research Assistant as also after end of the said assignment.

Signature\_\_\_\_\_

Name\_\_\_\_\_

\_\_\_\_\_

*Annexure-I*

**HIGH COURT OF JAMMU AND KASHMIR**

**APPLICATION FOR THE POST OF RESEARCH ASSISTANT TO  
HON'BLE THE CHIEF JUSTICE/HON'BLE JUDGE**

1. Name of the Candidate : (in block letters)

2. Father's/Husband's Name :

3. Date of Birth (DD/MM/YYYY) :

4. Community :

5. Basic Academic Qualifications :

[Educational qualifications under 10+2+3 pattern (Candidate should enclose self attested copies of all his/her Educational Certificates including S. S. L. C/MATRIC and H. S. C)]

S. No.	Particulars of Qualification	Name of the Board/University/ Institution	Year of Passing	%age of Marks
1.	S. S. L. C./Matriculation			
2.	H. S. C.			
3.	B. A./B. Sc./B. Com. etc.			

6. Law Qualifications :

S. No.	Particulars of Qualification	Name of the University/ Institution	Year of Passing	%age of Marks
1.				
2.				
3.				
4.				

\*Please refer to eligibility criteria in the Scheme/Guidelines for appointment of Research Assistant to the Hon'ble Judge uploaded in the website of the High Court of Jammu and Kashmir ([www.jkhighcourt.nic.in](http://www.jkhighcourt.nic.in)).

7. Other Qualifications, if any :

S. No.	Particulars of Qualification	Name of the University/ Institution	Year of Passing	%age of Marks
1.				
2.				

8. Enrolment Details, if any :

(Candidates should enclose attested copy of Enrolment Certificate)

Name of the Bar	Enrolment No.	Date of Enrolment

9. Details of practice, if any :

10. Address for communication :

11. Email id :

12. Contact Phone No. :

(Mobile/Landline with STD Code)

I undertake to submit that I have passed all the papers in Law Degree Examinations in first attempt and in the event of my selection to the assignment as Research Assistant to the Hon'ble Judge, I will not practice as an Advocate before any Court of Law or Tribunal and will not take up any employment either on full time or part time basis.

Certified that all the information furnished above by me is correct and true to the best of my knowledge and belief.

Place :

Date :

Signature of Candidate.